

**Notice of Allowability**

Application No.

10/821,798

Examiner

Paul D. Kim

Applicant(s)

FRANOSCH ET AL.

Art Unit

3729

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/16/2007.
2. ☒ The allowed claim(s) is/are 1 and 3-16.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

### **DETAILED ACTION**

This office action is a response to the amendment filed on 1/16/2007.

#### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Allowable Subject Matter***

2. The following is an examiner's statement of reasons for allowance: The prior art of record fails to disclose the claimed invention such as a process of forming a sacrificial structure on a substrate in order to create a protective cover for a device. The prior art of record of Aigner et al. teaches a process of generating a protective cover for a device including processes of creating a sacrificial structure on a substrate having a first portion covering a first area of the substrate including the device and a second portion extending from the first portion into a second area of the substrate including no device and depositing a first cover layer enclosing the sacrificial structure such that the second portion of the sacrificial structure is at least partially exposed and removing the sacrificial structure and closing a structure formed by the removal of the sacrificial structure. However, the sacrificial structure of Aigner et al. is created by a process of forming a sacrificial layer on the substrate follow by patterning the sacrificial layer by using a photoresist layer. Aigner et al. fail to disclose a process of forming the sacrificial structure such as a process applying a photoresist layer on the substrate and

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structuring the photoresist layer to expose the first area completely and the second area of the substrate partially and growing sacrificial material on the exposed areas of the substrate (as per claim 1). Aigner et al. also fail to disclose a process of depositing a photoresist layer on the structure after the sacrificial structure is formed to completely enclose the sacrificial structure and structuring the photoresist layer to expose an end of the second portion of the sacrificial structure facing away from the first portion of the sacrificial structure (as per claim 15) and the device includes a micromechanical structure formed in the substrate with at least one movable part, wherein the movable part of the micromechanical structure in the substrate is fixed by a further sacrificial structure and the sacrificial layer is at least partially borders on the further sacrificial layer, and the sacrificial structure and the further sacrificial layer are removed together in one step or successively in several steps to form the cavity and to expose the movable part of the micromechanical structure (as per claim 16). It is not obvious taken alone or in combination of other references fairly to suggest the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

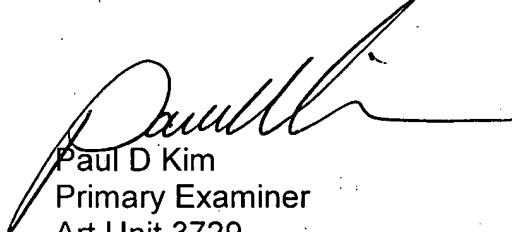
3. Claims 1 and 3-16 are allowed.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul D. Kim whose telephone number is 571-272-4565.

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The examiner can normally be reached on Monday-Thursday between 6:00 AM to 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Paul D Kim  
Primary Examiner  
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